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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,746	11/12/2003	Nicola A. Dicosola	30140/10000A	7529

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EXAMINER

FOX, JOHN C

ART UNIT PAPER NUMBER

3753

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,746

Applicant(s)

DICOSOLA, NICOLA A.

Examiner

John Fox

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

This action is responsive to the communication filed November 26, 2004.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Antonucci.

Antonucci shows a metal outlet box with a mounting bracket 22 and side openings 29'. Electric wire is flammable and the outlet, which is read as the termination end, is parallel to the back wall in a typical installation. Metal is read as fire resistant.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Antonucci in view of Glasser.

Antonucci shows the claimed invention except for ceramic construction, which Glasser teaches. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have made the box of Antonucci of ceramic for fire protection.

Claims 4-8, 14-15, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Antonucci in view of Kohaut.

Antonucci shows the claimed invention except for an intumescent coating. Kohaut teaches applying an intumescent layer to the interior of an outlet box for fire service, which layer is considered to be a coating. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have provided the box of Antonucci with such an intumescent coating as Kohaut teaches to improve the fire safety thereof. The provision of such a coating on the outside is considered to be an obvious matter of design choice.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Antonucci in view of Kohaut and further in view of McGinnis.

McGinnis teaches coating an article with an intumescent material for fire protection. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used a coating for the box of Antonucci in view of the teachings of Kohaut and McGinnis.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Budnick in view of Kohaut.

Budnick shows a connection box with tabs 15' for attaching to studs in new work, but does not teach an intumescent coating. Kohaut teaches applying an intumescent layer to the interior of an outlet box for fire service, which layer is considered to be a coating. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have provided the box of Budnick with such an intumescent coating as Kohaut teaches to improve the fire safety thereof.

Claims 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cunningham in view of Budnick.

Cunningham teaches a gas outlet box for installation in a wall recess, where the valve and connector 35, 38 are read as substantially parallel to the back wall, but does not teach a side opening or attachment members. Budnick shows a connection box with openings on the sides and two attachment members. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have provided the box of Cunningham with such side openings and attachment members to allow the gas line to enter the box from the side and to attach the box in the recess, respectively.

Claims 9-11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budnick in view of Gower.

Budnick shows a connection box with tabs 15' for attaching to studs in new work but is silent as to the material and does not show a strain relief. Gower shows a box made of metal and a strain relief for the wire. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have made the Budnick of metal and to use a strain relief to secure the wire used therewith.

Claims 12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budnick in view of Gower as applied above and further in view of Kohaut.

It would have been obvious for one of ordinary skill in the art at the time the invention was made to have provided the box of Budnick, as modified, with an intumescent layer as taught by Kohaut to improve the fire service of the box thereof.

Claims 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Budnick in view of Gower and further in view of Glasser.

Budnick teaches the claimed device except for the material and the strain relief. Gower shows a box with a strain relief for the wire. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used such a strain relief to secure the wire Budnick used. Glasser teaches a box made of metal, fire proof ceramic or plastic. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have made the Budnick box of ceramic or plastic in view of the well known nature of such connection boxes.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fox whose telephone number is 571-272-4912. The examiner can normally be reached on Increased Flextime.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Mancene can be reached on 571-272-4930. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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John Fox
Primary Examiner
Art Unit 3753